

CHAPTER 33-10-10
NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS - INSPECTIONS

Section

33-10-10-01 Purpose and Scope

33-10-10-02 General Regulatory Provisions and Specific Requirements

33-10-10-01. Purpose and scope. This chapter establishes requirements for notices, instructions, and reports by licensees or registrants to individuals engaged in activities under a license or registration and options available to such individuals in connection with department inspections of licensees or registrants to ascertain compliance with the provisions of North Dakota Century Code chapter 23-20.1, this article, orders, and licenses issued thereunder regarding radiological working conditions. This chapter applies to all persons who receive, possess, use, own, or transfer sources of radiation licensed by or registered with the department pursuant to chapters 33-10-02 and 33-10-03.

History: Amended effective October 1, 1982; June 1, 1986; June 1, 1992.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 23-20.1-03, 23-20.1-04

33-10-10-02. General regulatory provisions and specific requirements.

1. Posting of notices to workers.

- a. Each licensee or registrant shall post current copies of the following documents:
 - (1) This chapter and chapter 33-10-04.1.
 - (2) The license, certificate of registration, conditions, or documents incorporated into the license by reference and amendments thereto.
 - (3) The operating procedures applicable to activities under the license or registration.
 - (4) Any notice of violation involving radiological working conditions, proposed imposition of civil penalty, or order issued pursuant to chapter 33-10-01, and any response from the licensee or registrant.
- b. If posting of a document specified in paragraph 1, 2, or 3 of subdivision a is not practicable, the licensee or registrant may post a notice which describes the document and states where it may be examined.
- c. The department's "Notice to Employees" form (SFN 8414) must be posted by each licensee or registrant as required by this article.

- d. Documents, notices, or forms posted pursuant to this subsection must appear in a sufficient number of places to permit individuals engaged in work under the license or registration to observe them on the way to or from any particular work location to which the document applies, must be conspicuous, and must be replaced if defaced or altered.
- e. Department documents posted pursuant to paragraph 4 of subdivision a must be posted within five working days after receipt of the documents from the department. The licensee's or registrant's response, if any, must be posted within five working days after dispatch from the licensee or registrant. Such documents must remain posted for a minimum of five working days or until action correcting the violation has been completed, whichever is later.

2. Instructions to workers.

- a. All individuals who in the course of employment are likely to receive in a year an occupational dose in excess of one millisievert [100 millirem] shall be:
 - (1) Kept informed of the storage, transfer, or use of radiation or radioactive material.
 - (2) Instructed in the health protection problems associated with exposure to radiation or radioactive material, in precautions or procedures to minimize exposure, and in the purposes and functions of protective devices employed.
 - (3) Instructed in, and required to observe, to the extent within the worker's control, the applicable provisions of this article and licenses for the protection of personnel from exposure to radiation or radioactive material.
 - (4) Instructed of their responsibility to report promptly to the licensee or registrant any condition which may constitute, lead to, or cause a violation of North Dakota Century Code chapter 23-20.1, this article, and licenses or unnecessary exposure to radiation or radioactive material.
 - (5) Instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material.
 - (6) Advised as to the radiation exposure reports which workers may request pursuant to subsection 3.

- b. In determining those individuals subject to the requirements of subdivision a, licensees and registrants must take into consideration assigned activities during normal and abnormal situations involving exposure to radiation or radioactive material which can reasonably be expected to occur during the life of a licensed or registered facility. The extent of these instructions must be commensurate with potential radiological health protection problems present in the workplace.

3. Notifications and reports to individuals.

- a. Radiation exposure data for an individual and the results of any measurements, analyses, and calculations of radioactive material deposited or retained in the body of an individual must be reported to the individual as specified in this subsection. The information reported must include data and results obtained pursuant to this article, orders, or license conditions, as shown in records maintained by the licensee or registrant pursuant to subsection 7 of section 33-10-04.1-15. Each notification and report must:

- (1) Be in writing.
- (2) Include appropriate identifying data such as the name of the licensee or registrant, the name of the individual, and the individual's identification number, preferably social security number.
- (3) Include the individual's exposure information.
- (4) Contain the following statement:

This report is furnished to you under the provisions of North Dakota Radiological Health Rules (North Dakota Administrative Code chapter 33-10-10). You should preserve this report for further reference.

- b. Each licensee or registrant shall furnish to each worker annually a written report of the worker's dose as shown in records maintained by the licensee or registrant pursuant to subsection 7 of section 33-10-04.1-15.
- c. Each licensee or registrant shall furnish a written report of the worker's exposure to sources of radiation at the request of a worker formerly engaged in activities controlled by the licensee or registrant. The report shall include the dose record for each year the worker was required to be monitored pursuant to subsection 2 of section 33-10-04.1-09 or the monitoring requirements in effect prior to March 1, 1994. Such report must be furnished within thirty days from the date of the request, or within thirty days after the

dose of the individual has been determined by the licensee or registrant, whichever is later. The report must cover the period of time that the worker's activities involved exposure to sources of radiation and must include the dates and locations of work under the license or registration in which the worker participated during this period.

- d. When a licensee or registrant is required pursuant to section 33-10-04.1-16 to report to the department any exposure of an individual to sources of radiation, the licensee or the registrant shall also provide the individual a copy of the report submitted to the department. Such reports must be transmitted at a time not later than the transmittal to the department.
- e. At the request of a worker who is terminating employment with the licensee or registrant in work involving exposure to radiation or radioactive material, during the current year, each licensee or registrant shall provide at termination to each such worker, or to the worker's designee, a written report regarding the radiation dose received by that worker from operations of the licensee or registrant during the current year or fraction thereof. If the most recent individual monitoring results are not available at that time, a written estimate of the dose shall be provided together with a clear indication that this is an estimate.

4. Presence of representatives of licensees or registrants and workers during inspection.

- a. Each licensee or registrant shall afford to the department at all reasonable times opportunity to inspect materials, machines, activities, facilities, premises, and records pursuant to this article.
- b. During an inspection, department inspectors may consult privately with workers as specified in subsection 5. The licensee or registrant may accompany department inspectors during other phases of an inspection.
- c. If, at the time of inspection, an individual has been authorized by the workers to represent them during department inspections, the licensee or registrant shall notify the inspectors of such authorization and shall give the workers' representative an opportunity to accompany the inspectors during the inspection of physical working conditions.
- d. Each workers' representative must be routinely engaged in work under control of the licensee or registrant and must have received instructions as specified in subsection 2.

- e. Different representatives of licensees or registrants and workers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the conduct of the inspection. However, only one workers' representative at a time may accompany the inspectors.
- f. With the approval of the licensee or registrant and the workers' representative, an individual who is not routinely engaged in work under control of the licensee or registrant, for example, a consultant to the licensee or registrant or to the workers' representative, must be afforded the opportunity to accompany department inspectors during the inspection of physical working conditions.
- g. Notwithstanding the other provisions of this subsection, department inspectors are authorized to refuse to permit accompaniment by any individual who deliberately interferes with a fair and orderly inspection. With regard to any area containing proprietary information, the workers' representative for that area must be an individual previously authorized by the licensee or registrant to enter that area. With regard to areas containing information classified by an agency of the United States government in the interest of national security, an individual who accompanies an inspector may have access to such information only if authorized to do so.

5. Consultation with workers during inspections.

- a. Department inspectors may consult privately with workers concerning matters of occupational radiation protection and other matters related to applicable provisions of department rules and licenses to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection.
- b. During the course of an inspection any worker may bring privately to the attention of the inspectors, either orally or in writing, any past or present condition which the worker has reason to believe may have contributed to or caused any violation of North Dakota Century Code chapter 23-20.1, this article, or license condition, or any unnecessary exposure of an individual to radiation from licensed radioactive material or a registered radiation machine under the licensee's or registrant's control. Any such notice, in writing, must comply with the requirements of subdivision a of subsection 6.
- c. The provisions of subdivision b may not be interpreted as authorization to disregard instructions pursuant to subsection 2.

6. Requests by workers for inspections.

- a. Any worker or representative of workers believing that violations of North Dakota Century Code chapter 23-20.1, this article, or license conditions exist or have occurred in work under a license or registration with regard to radiological working conditions in which the worker is engaged, may request an inspection by giving notice of the alleged violation to the department. Any such notice must be in writing, must set forth the specific grounds for the notice, and must be signed by the worker or representative of the workers. A copy must be provided to the licensee or registrant by the department no later than at the time of inspection except that, upon the request of the worker giving such notice, the worker's name and the name of individuals referred to therein may not appear in such copy or on any record published, released, or made available by the department, except for good cause shown.
- b. If, upon receipt of such notice, the department determines that the complaint meets the requirements set forth in subdivision a and that there are reasonable grounds to believe that the alleged violation exists or has occurred, an inspection must be made as soon as practicable, to determine if such alleged violation exists or has occurred. Inspections pursuant to this subsection need not be limited to matters referred to in the complaint.
- c. No licensee, registrant, or contractor or subcontractor of a licensee or registrant may discharge or in any manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under this article or has testified or is about to testify in any such proceeding or because of the exercise by such worker on behalf of the worker or others of any option afforded by this chapter.

7. Inspections not warranted - Informal review.

- a. (1) If the department determines, with respect to a complaint under subsection 6, that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists or has occurred, the department shall notify the complainant in writing of such determination. The complainant may obtain review of such determination by submitting a written statement of position with the department which will provide the licensee or registrant with a copy of such statement by certified mail, excluding, at the request of the complainant, the name of the complainant. The licensee or registrant may submit an opposing written statement of position with the department which will provide the complainant with a copy of such statement by certified mail.

- (2) Upon the request of the complainant, the department may hold an informal conference in which the complainant and the licensee or registrant may orally present their views. An informal conference may also be held at the request of the licensee or registrant but disclosure of the identity of the complainant will be made only following receipt of written authorization from the complainant. The department shall render an informal opinion after the close of the conference. The complainant shall have the right of petition for a formal administrative hearing as provided for by North Dakota Century Code chapter 28-32 and North Dakota Administrative Code article 33-22, following the decision of such formal conference.
- b. If the department determines that an inspection is not warranted because the requirements of subdivision a of subsection 6 have not been met, the department shall notify the complainant in writing of such determination. Such determination must be without prejudice to the filing of a new complaint meeting the requirements of subdivision a of subsection 6.

History: Effective June 1, 1992; amended effective March 1, 1994; May 1, 1998; March 1, 2003.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-04